



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 37] नई दिल्ली, मंगलवार, जुलाई 15, 1975/अ.स. 24, 1897
No. 37] NEW DELHI, TUESDAY, JULY 15, 1975/ASADHA 24, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 15th July, 1975/Asadha 24, 1897 (Saka)

THE MAINTENANCE OF INTERNAL SECURITY
(SECOND AMENDMENT) ORDINANCE, 1975

No. 7 of 1975

Promulgated by the President in the Twenty-sixth Year of the
Republic of India

An Ordinance further to amend the Maintenance of Internal
Security Act, 1971.

WHEREAS a grave emergency exists whereby the security of India is
threatened by external aggression and internal disturbance;

AND WHEREAS Parliament is not in session and the President is satisfied
that circumstances exist which render it necessary for him to take im-
mediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance:—

1. (1) This Ordinance may be called the Maintenance of Internal Security
(Second Amendment) Ordinance, 1975.

Short
title and
commence-
ment.

(2) Section 6 shall be deemed to have come into force on the 25th day of June, 1975 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 29th day of June, 1975.

Amend-
of sec-
tion 4.

2. In section 4 of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

26 of
1971.
5 of 1898.
2 of 1974.

Amend-
of sec-
tion 7.

3. In section 7 of the principal Act,—

(a) in clause (a) of sub-section (1), for the words and figures "Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898", the words, figures and brackets "Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

(b) in sub-section (2), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

Amend-
ment of
section
15.

4. In section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If the appropriate Government has reason to believe that any person who has failed to surrender himself in the manner specified in sub-section (3) has absconded or is concealing himself, that Government may make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply in relation to such person as they apply in relation to a person who has absconded or is concealing himself so that a warrant issued by the Magistrate cannot be executed."

2 of 1974.

Amend-
ment of
section
16A.

5. In section 16A of the principal Act, inserted therein by the Maintenance of Internal Security (Amendment) Ordinance, 1975,—

(a) in sub-section (2), for the words "every person against whom an order of detention was made", the words and brackets "every person (including a foreigner) against whom an order of detention was made under this Act" shall be substituted;

Ord. 4
of 1975.

(b) in sub-section (3), after the words "an order of detention under this Act against any person", the brackets and words "(including a foreigner)" shall be inserted;

(c) for sub-sections (6) and (7), the following sub-sections shall be substituted, namely:—

'(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a

person the review of whose case is pending under that sub-section or in respect of whom a declaration has been made under that sub-section,—

(i) sections 8 to 12 shall not apply; and

(ii) section 13 shall apply subject to the modification that the words and figures “which has been confirmed under section 12” shall be omitted.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (3) apply, being a person in respect of whom a declaration has been made under that sub-section,—

(i) section 3 shall apply subject to the modification that for sub-sections (3) and (4) thereof, the following sub-section shall be substituted, namely:—

“(3) When any order of detention is made by a State Government or by an officer subordinate to it, the State Government shall, within twenty days, forward to the Central Government a report in respect of the order.”;

(ii) sections 8 to 12 shall not apply; and

(iii) section 13 shall apply subject to the modification that the words and figures “which has been confirmed under section 12” shall be omitted.’

6. Section 18 of the principal Act shall be re-numbered as section 19 thereof and before that section as so re-numbered, the following section shall be inserted, namely:—

Insertion
of new
section 18.

“18. No person (including a foreigner) detained under this Act shall have any right to personal liberty by virtue of natural law or common law, if any.”

Exclus-
ion of
common
law or
natural
law
rights,
if any.

7. Anything done or any action taken under the principal Act, as amended by the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall be deemed to have been done or taken under the principal Act as amended by that Ordinance and this Ordinance.

Saving.

Ord. 4
of 1975.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

